

FISCAL NOTE

SB 2840 - HB 3028

February 23, 2002

SUMMARY OF BILL:

- Under present law, the furnishing, for consideration, of either intrastate or interstate telecommunications services is subject to sales and use tax. Only those charges for interstate telecommunications which are originated or received in this state and which are billed or charged to a service address in Tennessee are included in the tax base.
- Subject to federal law, charges for *mobile telecommunications services* that are subject to taxation under the present law provision described above would be deemed to have originated or been received in Tennessee and to be billed or charged to a service address in this state if the customer's place of primary use is located in Tennessee, regardless of where such service actually originates or terminates, and no charges for *mobile telecommunications services* would be subject to tax if the customer's place of primary use is not located in Tennessee. Defines *mobile telecommunications services* as commercial radio service.
- Establishes guidelines for a home service provider's liability for taxes due on mobile telecommunications services. Defines a *home service provider* as the facilities-based carrier or reseller with which the customer contracts for provision of mobile telecommunications services. The services would be determined in accordance with federal law, but the home service provider's responsibility for determining the place of primary use of the mobile telecommunications services would be controlled by provisions in federal law.
- Authorizes, but does not require, the commissioner of revenue to provide a home service provider with an electronic database, that meets requirements of federal law, which designates for each street address in the state, the appropriate taxing jurisdictions, and the appropriate code for each taxing jurisdiction, for each level of taxing jurisdiction, identified by one nationwide standard numeric code.
 - If such database is provided by the commissioner, a home service provider would be held harmless from any tax, charge, or fee liability that otherwise would be due solely as a result of any errors or omissions in such database, subject to the provisions of federal law.
 - If no database is provided by the commissioner of revenue, a home service provider may use an enhanced zip code data base and would be held harmless from any tax, charge, or fee liability that otherwise would be due solely as a result of its reliance on such enhanced zip code, subject to the provisions of federal law.
- Provides that provisions of the bill would become invalid if a court of competent jurisdiction enters a final judgment on the merits that is based on federal law, no longer subject to appeal, and substantially limits or impairs the essential elements of the federal sourcing rules adopted by this bill.
- Increases the local option sales tax rate from 1.5% to 2.25% on telecommunications services. Would change the allocation of such tax from being distributed based on situs to being distributed based on population.
- The bill would take effect on becoming law, but would apply only to customer bills issued after August 1, 2002.

SB 2840 - HB 3028

ESTIMATED FISCAL IMPACT:

Increase State Revenues - Exceeds \$25,000

Increase State Expenditures - \$25,000 One-Time

Increase Local Govt. Revenues - Exceeds \$2,250,000

Other Fiscal Impact - Shifts allocation of local government revenue currently collected from the tax on telecommunications services from being distributed based on situs to being distributed based on population.

Estimate assumes:

- an increase in state revenues that exceeds \$25,000 resulting from the Department of Revenue receiving the 1.125% administrative fee prior to allocating the increased local option sales tax revenue that is generated by increasing the local option sales tax on telecommunications services from 1.5% to 2.25%.
- an increase in state expenditures of \$25,000 one-time resulting from MIS systems modifications costs in the Department of Revenue to change the distribution formula of revenues generated by the local option sales tax on telecommunications services from being distributed based on situs to being distributed based on population.
- an increase in local government revenue which is estimated to exceed \$2,250,000 due to the increased revenue generated from raising the local option sales tax rate on telecommunications services from 1.5% to 2.25%. Based on information provided by the Department of Revenue, statewide collections for the local option sales tax on telecommunications services in FY 2001 at the 1.5% rate were \$4,500,000.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James A. Davenport, Executive Director

SB 2840 - HB 3028